

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ADOBE SYSTEMS INCORPORATED,

Plaintiff,

v.

AIDEN O'CONNORS ET AL, et al.,

Defendant.

No. C 08-05511 JSW

**ORDER GRANTING REQUEST  
FOR CONTINUANCE OF CASE  
MANAGEMENT CONFERENCE  
AND ORDER TO SHOW CAUSE**

The Court has received Plaintiff's request for a continuance of the Case Management Conference currently set for June 26, 2009. Good cause appearing, the request is GRANTED, and the Case Management Conference shall be continued to September 11, 2009 at 1:30 p.m. A joint case management conference statement shall be due on September 4, 2009.

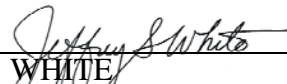
Plaintiff filed the original complaint in this matter on December 9, 2008, in which it named only Aiden O'Connors and Does 1-10 as defendants. On April 3, 2009, the Court issued an Order granting Plaintiff leave to take immediate discovery. In addition, it also granted Plaintiff's request to extend the time under Federal Rule of Civil Procedure 4(m) by which it was required to serve Defendant O'Connors. Pursuant to that Order, Plaintiff was required to effect service by June 5, 2009.

On May 21, 2009, Plaintiff filed an Amended Complaint, naming two additional defendants but raising the same claims for relief as it did in its original complaint. According to the Declaration submitted in support of its request to continue the case management conference, Plaintiff, however, has not served Defendant O'Connor with either the original complaint or the Amended Complaint.

1           “The 120-day time limit for service does not restart each time a plaintiff files a new  
2 amended complaint.” *Rudolph v. UT Starcom*, 2009 WL 248370 at \* 2 (N.D. Cal. Feb. 2, 2009)  
3 (citing *Bolden v. City of Topeka*, 441 F.3d 1129, 1148 (10<sup>th</sup> Cir. 2006) (120-day time period  
4 restarts only as to newly named defendants)). Accordingly, Plaintiff is HEREBY ORDERED to  
5 show cause why this matter should not be dismissed as to Defendant O’Connors and why an  
6 extension of time to serve Defendant O’Connors should be granted. Plaintiff’s response to this  
7 Order shall be due by no later than June 22, 2009.

8           **IT IS SO ORDERED.**

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10          Dated: June 15, 2009

  
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JEFFREY S. WHITE  
UNITED STATES DISTRICT JUDGE